

REMARKS

The Official Action rejects Claims 1-5, 7-9, 12 and 13 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,066,257 to Bynum W. Moller in view of U.S. Patent No. 5,830,113 to Bruce F. Coody, et al. Additionally, Claims 6, 15-20, 22-24, 27 and 28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Moller '257 patent in view of the Coody '113 patent and U.S. Patent No. 5,496,247 to Marlin D. Anderson. As described below, the rejection of independent Claim 1 is traversed, while the other independent claim, that is, independent Claim 15, has been amended to further patentably distinguish the claimed invention from the cited references. In addition, new dependant Claim 46 has been added and now positively recites that the combined seating and treadmill exercise device of independent Claim 1 includes the interior assembly of an aircraft to which the treadmill track is structurally attached.

The Official Action also objects to the drawings under 37 CFR § 1.83(a) for failing to show every feature of the claimed invention. In particular, the Official Action suggests that the drawings fail to depict the floor attachment means, the payment means and the time limit means. Similarly, the Official Action rejects Claims 1-13, 25, 26 and 29 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement for failing to depict a securing device, a means for accepting payment and a means for limiting the time as recited by the claims and as mentioned above in conjunction with the objection to the drawings. As described below, replacement drawings are submitted herewith which illustrate the securing means, as well as the means for accepting payment and the means for limiting the exercise time. Although the specification previously described each of these features, the specification has now been amended to associate a reference number with each of these features. Finally, the Official Action objects to Claim 17 for misspelling "one" as "on." Claim 17 has now been amended to properly spell "one," thereby overcoming this objection. Based on the foregoing amendments and the submission of the replacement drawings, Applicant respectfully requests reconsideration of the present application and allowance of the pending set of claims.

As to the objection to the drawing and the rejection of Claims 1-13, 25, 26 and 29 under 35 U.S.C. § 112, first paragraph, the Official Action points out that the securing device, the means for accepting the payment and the means for limiting the time of use that are recited in

various ones of the claims are not depicted and therefore may not be sufficiently enabled. As described in the prior Amendment dated June 15, 2004, however, the specification does describe these elements in such a manner as to enable one of skill in the art. In this regard, page 8, lines 9-12 of the specification describe that "[t]he treadmill track 26 of the seating and treadmill exercise device 14 may also be firmly attached to the floor 24 of the cabin by a securing device, such as a latch, clamp, hook, bolt or the like." Accordingly, the specification does describe the securing means that is recited in independent Claim 1 and dependent Claim 29. In order to specifically address the objection to the drawings, replacement sheet 2/7 is submitted herewith which depicts one of the embodiments of the securing device described by the specification. In this regard, replacement sheet 2/7 depicts a securing device 48 in the form of a hook for attaching the treadmill exercise device to the floor. As such, the securing device is now depicted by replacement sheet 2/7 so as to overcome the objection to the drawings and to further address the objection to the specification. As a securing device including, in particular, a hook was described by the application as originally filed, the addition of a hook in replacement sheet 2/7 does not constitute new matter.

The specification, on page 7, line 21-page 8, line 3, also describes the means for accepting payment as recited by Claims 10 and 25 and the means for limiting time as recited by Claims 11 and 26 as follows:

If treadmill use is to be controlled by payment or time (depending on airline preferences), the seating and treadmill exercise device and, most commonly, the control panel, may include means for securing payment for use of the treadmill, such as a slot for accepting bills and/or coins utilized to pay for usage of the treadmill or a card reader for accepting and reading a credit card, frequent flier card or the like that is utilized by the passenger to pay for use of the treadmill, and/or a timer or other type of alarm for limiting the time during which a passenger can utilize the treadmill...The seating and treadmill exercise device 14 also includes a controller that operates in conjunction with the control panel to compute the various parameters and correspondingly drive the display(s). In addition, the controller is preferably adapted to provide control signals to the motor based upon input received via the control panel. In embodiments in which treadmill usage is

controlled by payment and/or time, the controller also insures that payment has been received and/or enforces the time limits.

Applicant submits that the means for accepting payment and the means for limiting time were illustrated in the original figures, but were not specifically designated with respective reference numbers. As such, replacement sheets 5/7, 6/7 and 7/7 are submitted herewith which designate a card reader which serves as one embodiment of the means for accepting payment as 50 and a timer for presenting the time remaining and/or the elapsed time and which serves as one embodiment of the means for limiting time as 52. In this regard, Figures 5, 6 and 7 depict a card reader 50 in the form of a slot through which a user's credit card, frequent flyer card or the like can be scanned, as described by the specification. Figures 5, 6 and 7 also depict a display which would be well understood to those skilled in the art to be capable of serving as a timer, as also described by the specification. Since the means for accepting payment and the means for limiting time are now more clearly depicted by the figures, Applicant submits that both the objection to the drawings and the objection to the specification should be overcome. Since the means for accepting payment and the means for limiting time were already depicted by the drawings in a manner consistent with the description provided by the specification, the addition of reference numbers does not introduce any new matter.

In summary, the specification does provide sufficient support for the recitations of Claims 1-13, 25 and 26 to enable a person skilled in the art. Applicant therefore submits that the rejection of these claims under 35 U.S.C. § 112, first paragraph, is overcome. Similarly, replacement sheets 2/7, 5/7, 6/7 and 7/7 depict the securing means, the means for accepting payment and the means for limiting time in a manner consistent with the specification, thereby also overcoming the objection to the original drawings.

With respect to the rejection under 35 U.S.C. § 103(a), the combined seating and treadmill exercise device of independent Claim 1 includes a treadmill track movable between stowed and deployed positions, a folding seat connected to the treadmill track and moveable relative to the treadmill track to permit a person to sit on the seat while the treadmill track is stowed, and a securing device for attaching the treadmill track to the floor when the treadmill

track is in the deployed position. Thus, a user can use the treadmill track without concern that the treadmill track will disadvantageously bounce or otherwise move.

The primary reference, the Moller '257 patent, describes a treadmill exercise device capable of being alternately positioned between a horizontal operative position in which a user can walk or run upon the treadmill and an upright storage position. In this regard, the treadmill exercising device includes a cabinet pivotably mounted to a wall, such as along a baseboard. The treadmill is disposed within the cabinet and can be pivotal either with the cabinet or independent of the cabinet. In instances in which the user desires to stow the treadmill, the cabinet and treadmill are pivoted upwardly to extend vertically upwards along the wall. Once stowed in a vertical manner along the wall, the treadmill may be latched to a bar mounted to the wall. Although the treadmill exercise device of the Moller '257 patent may be latched to the wall, the Moller '257 patent does not teach or suggest that the treadmill exercise device could or should be latched or otherwise secured to the floor while in the horizontal operative position.

Likewise, the secondary reference, the Coody '113 patent, does not teach or suggest any device for securing the treadmill track to the floor while in the deployed position, as recited by independent Claim 1. Instead, the treadmill of the Coody '113 patent includes gas springs to govern movement of the treadmill from the stowed position to the deployed position and to assist a user in lifting the treadmill from the deployed position so as to return to the stowed position. Thus, not only does the Coody '113 patent fail to teach or suggest any device for securing the treadmill track to the floor while in the deployed position, but the treadmill of the Coody '113 patent includes gas springs for lifting the treadmill from the deployed position.

Thus, neither the Moller '257 patent nor the Coody '113 patent, taken either individually or in combination, teaches or suggests a combined seating and treadmill exercise device that includes a securing device for firmly attaching it to the floor while in the deployed position as recited by independent Claim 1. Based on the environments in which the treadmills of the cited references are shown to be deployed, such as in a home, there would appear to be no motivation or suggestion to modify the treadmills to include a securing device since the weight of the treadmill devices themselves generally sufficiently maintain the treadmill device in position on the floor. In fact, weight of the treadmill may be such that it is not only maintained in a stable

position on the floor while in use, but a user may need assistance in lifting the treadmill in order to stow it away. For example, the Coody '113 patent goes provides gas springs for assisting a user in lifting the treadmill. In contrast, the combined seating and treadmill exercise device of the claimed invention may be utilized onboard an aircraft. Since aircraft are subject to turbulence during flight, the securing device of the combined seating and treadmill exercise device of independent Claim 1 is particularly advantageous for airborne applications, although no similar securing device has been demonstrated in conjunction with a conventional treadmill for home or other land-based use.

Thus, Applicant submits that independent Claim 1, as well as the claims that depend therefrom, are not taught or suggested by the Moller '257 patent in combination with the Coody '113 patent. Thus, the rejection of Claims 1-5, 7-9, 12 and 13 under 35 U.S.C. § 103(a) is therefore overcome.

With respect to the other independent claim, that is, Claim 15, the Moller '257 patent and the Coody '113 patent are further combined with the Anderson '247 patent in fashioning a rejection of Claims 15-20, 22-24, 27 and 28 under 35 U.S.C. § 103(a). Independent Claim 15 recites a combined seating and treadmill exercise device for an aircraft having a treadmill track placed in a cross-aisle of the aircraft and capable of being moved between stowed and deployed positions, a folding seat connected to the treadmill track to permit a person to sit on the seat while the treadmill track is in the stowed position, and safety restraints for securing an occupant seated on the seat. Claim 15 further defines the safety restraints to be at least one of a seat belt, a shoulder belt and a harness restraint. As now amended, independent Claim 15 also positively recites the aircraft as having a door and at least one cross-aisle leading to the door, thereby addressing the comment on page 5 of the Official Action which explained that Claim 15 was previously interpreted without regard to the placement of the combined seating and treadmill exercise device onboard an aircraft since the aircraft had not been positively recited until now. It is noted that the positive recitation of the aircraft and the placement of the combined seating and treadmill exercise device onboard the aircraft bears a relation to the other elements of amended independent Claim 15 since the inclusion of safety restraints and, in particular, a seat belt,

shoulder belt or harness restraint is particularly advantageous due to the effect of turbulence upon passengers and the regulations that govern air flight.

None of the cited references, taken either individually or in combination, teach or suggest a combined seating and treadmill exercise device which is onboard on aircraft. Instead, the various treadmills and exercise devices of the cited references appear to be designed for home or other land-based use. It is therefore submitted that even if the cited references were combined, the combination of references does not teach or suggest a combined seating and treadmill exercise device of amended independent Claim 15 that now positively recites an aircraft having a door and a cross aisle leading to the door and a combined seating and treadmill exercise device placed in the cross aisle proximate the door, thereby necessitating the movement of the treadmill track between a stowed position and a deployed position in order to permit use while in flight while still being capable of being stowed during takeoff and landing. Applicant therefore submits that the rejection of amended independent Claim 15, as well as the claims that depend therefrom, is overcome for at least the reasons described above.

While the dependent claims are patentably distinct from the cited references for the same reasons as described above in conjunction with a respective independent claim, several of the dependent claims include additional recitations that also are not taught or suggested by the cited references. For example, new dependent Claim 46 further defines the combined seating and treadmill exercise device to include an aircraft having an interior assembly with the treadmill track being securely connected to the floor and/or wall of the interior assembly of the aircraft, thereby further patentably distinguishing the claimed invention for the reasons described above in conjunction with independent Claim 15. In addition, dependent Claims 10 and 25 recite means for accepting payment for use of the treadmill track, while dependent Claims 11 and 26 recite means for limiting the time during which someone may use the treadmill track. Although the Official Action rejects these claims for lack of enablement and for not being properly illustrated (objections that are addressed above), the Official Action does not reject these claims for being obvious over the cited references. In this regard, Applicant submits that none of the cited references, taken either individually or in combination, teaches or suggests any means for accepting payment for use of the treadmill as recited by Claims 10 and 25, or any means for

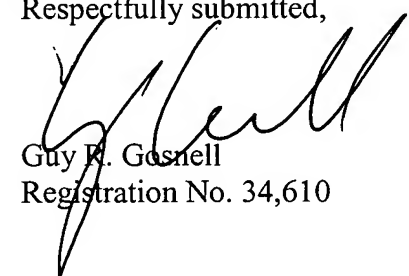
limiting the time during which a user may exercise upon the treadmill as recited by dependent Claims 11 and 26. Applicant therefore submits that dependent Claims 10, 11, 25 and 26 are also patentably distinct from the cited references, taken either individually or in combination, for these additional reasons.

CONCLUSION

In view of the amended specification, the replacement drawings, the amended claims and the foregoing remarks, Applicant submits that all rejections have been overcome and that the amended set of claims is in condition for immediate allowance. Applicant therefore requests issuance of a Notice of Allowance at the earliest juncture. If any issues arise during the consideration of this Amendment, the Examiner is requested to telephone Applicant's undersigned attorney to expeditiously resolve such issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

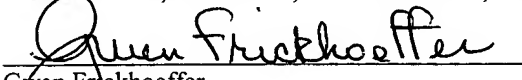
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CLT01/4652762v2

Amendments to the Drawings:

The attached sheets of drawings include changes to Figures 2, 5, 6 and 7 and replace the original sheets containing these figures.

Attachment: Replacement Sheets 2/7, 5/7, 6/7 and 7/7